

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: Stanley Keebler and Joe Hale )  
Map 30, Control Map 30, Parcel 84, S.I. 001 ) Washington County  
Commercial Property )  
Tax Year 2005 )

**INITIAL DECISION AND ORDER DISMISSING APPEAL**

**Statement of the Case**

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$542,200	\$ -0-	\$542,200	\$216,880

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on April 11, 2006 in Jonesborough, Tennessee. In attendance at the hearing were Stanley Keebler, the appellant, and Washington County Property Assessor's representative, John Sims.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Subject property consists of an unimproved 2.22 acre tract located on Bristol Highway in Johnson City, Tennessee.

The threshold issue in this appeal concerns jurisdiction. This issue arises from the fact that the disputed appraisal was not appealed to the Washington County Board of Equalization during its 2005 session.

The administrative judge finds that Tennessee law requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board is permitted only if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(a)(3) & 67-5-903(c). Nevertheless, the legislature has also provided that:

The taxpayer shall have right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Tenn. Code Ann. § 67-5-1412(e). The Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of



them. It was not the intent of the 'reasonable cause' provisions to waive these requirements except where the failure to meet them is due to illness or other circumstances beyond the taxpayer's control.

*Associated Pipeline Contractors, Inc.*, Williamson County, Tax Year 1992, Assessment Appeals Commission (Aug. 11, 1994). *See also John Orovets*, Cheatham County, Tax Year 1991, Assessment Appeals Commission (Dec. 3, 1993). Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond his control prevented him from appealing to the Washington County Board of Equalization.

The administrative judge finds that Mr. Keebler appealed subject parcel to the State Board of Equalization for tax year 2004 along with several other parcels. The administrative judge ruled in Mr. Keebler's favor in most of those appeals. With respect to this particular parcel, however, the administrative judge affirmed the assessor's valuation. The administrative judge's decision was *not* appealed to the Assessment Appeals Commission.

According to the records of the Washington County Board of Equalization, Mr. Keebler did not file any appeals for tax year 2005 with that body. Mr. Keebler testified that he could no longer remember which, if any, parcels he appealed to the Washington County Board of Equalization during its 2005 session. Mr. Keebler did not provide any reason for his apparent failure to appeal locally.

Respectfully, the administrative judge finds Mr. Keebler failed to establish that circumstances beyond his control prevented him from appealing to the Washington County Board of Equalization. Indeed, it appears that simple inattentiveness constituted the underlying problem. The administrative judge finds that Mr. Keebler is well versed in appeal procedures as evidenced by the numerous appeals he has filed with the Washington County Board of Equalization and State Board of Equalization over the years. The administrative judge finds that the records of the Washington County Board of Equalization must be presumed correct absent evidence to the contrary.

#### ORDER

It is therefore ORDERED that this appeal be dismissed for lack of jurisdiction and the following value and assessment remain in effect for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$542,200	\$ -0-	\$542,200	\$216,880

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.




Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 20th day of April, 2006.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Stanley Keebler and Joe Hale  
Monty Treadway, Assessor of Property